

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UPT POOL LTD.,

- X

Plaintiff,

-against-

ORDER

14-CV-9262 (VEC)

DYNAMIC OIL TRADING (SINGAPORE) PTE. LTD., O.W. BUNKER USA INC., O.W. BUNKER: NORTH AMERICA INC., O.W. BUNKER HOLDING NORTH AMERICA INC., HARLEY MARINE SERVICES, INC., ING BANK N.V.,

Defendants.:

BIRCH SHIPPING LTD.,

- X

Plaintiff,

-against-

14-CV-9282 (VEC)

O.W. BUNKER CHINA LTD. (HK), O.W.
BUNKER USA INC., O.W. BUNKER NORTH
AMERICA INC., O.W. BUNKER HOLDING
NORTH AMERICA INC., O.W. BUNKER &
TRADING A/S, CHEMOIL LATIN AMERICA,
INC., JING BANK N.V..

Defendants:

CLEARLAKE SHIPPING PTE LTD.,

-x

Plaintiffs.

-against-

14-CV-9286 (VEC)

O.W. BUNKER (SWITZERLAND) SA, O.W. BUNKER USA INC., O.W. BUNKER NORTH AMERICA INC., O.W. BUNKER HOLDING NORTH AMERICA INC., WESTOIL MARINE SERVICES INC., ING BANK N.V.

Defendants:

-x

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DATE FILED: 2/20/2015

ORDER

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CLEARLAKE SHIPPING PTE LTD, :
: Plaintiff, :
: -against- : 14-CV-9287 (VEC)
:
O.W. BUNKER (SWITZERLAND) SA, O.W. :
BUNKER USA INC., O.W. BUNKER NORTH :
AMERICA INC., O.W. BUNKER HOLDING :
NORTH AMERICA INC., NUSTAR ENERGY :
SERVICES INC., ING BANK N.V., :
:
Defendants:
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BONNY GAS TRANSPORT LIMITED, as owner :
of the LNG FINIMA (IMO No. 7702401), :
:
Plaintiff, : 14-CV-9542 (VEC)
: -against- :
:
O.W. BUNKER GERMANY GMBH, NUSTAR :
TERMINALS MARINE SERVICES N.V., :
NUSTAR ENERGY SERVICES, INC., ING :
BANK N.V., :
:
Defendants.:
----- X
MT CAPE BIRD TANKSCHIFFAHRTS GMBH :
& CO. KG, individually and on behalf of M/T :
CAPE BIRD (IMO No. 9260067), :
:
Plaintiff, : 14-CV-9646 (VEC)
:
-against- :
:
O.W. USA INC., O.W. NORTH AMERICA INC., :
HARLEY MARINE SERVICES, INC., ING :
BANK N.V., :
:
Defendants.:
----- X

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SHV GAS SUPPLY & RISK MANAGEMENT :
SAS AND EXMAR SHIPPING BVBA, :
as owner of the WAREGEM (IMO No. 9659127), :
:
Plaintiffs, :
: 14-CV-9720 (VEC)
-against- :
:
OW BUNKER USA, INC., OW BUNKER :
HOLDING NORTH AMERICA INC., OW :
BUNKER NORTH AMERICA INC., NUSTAR :
ENERGY SERVICES, INC., ING BANK NV, :
:
Defendants. :
-----X
HAPAG-LLOYD AKTIENGESELLSCHAFT, :
:
Plaintiff, :
:
-against- : 14-CV-9949 (VEC)
:
U.S. OIL TRADING L.L.C., O.W. BUNKER :
GERMANY GMBH, O.W. BUNKER & :
TRADING A/S, ING BANK N.V. AND CREDIT :
AGRICOLE S.A., :
:
Defendants. :
-----X
OSG SHIP MANAGEMENT, INC., and 1372 :
TANKER CORPORATION as owner of the M/V :
OVERSEAS MULAN (IMO NO. 9230880), :
:
Plaintiffs, :
: 14-CV-9973 (VEC)
-against- :
:
O.W. BUNKER USA INC., OW BUNKER :
MIDDLE EAST DMCC, CHEMOIL :
CORPORATION, CHEMOIL MIDDLE EAST :
DMCC, GPS CHEMOIL LLC FZC, and ING :
BANK NV, :
:
Defendants. :
-----X

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HAPAG-LLOYD AKTIENGESELLSCHAFT, :
: Plaintiff, :
: -against- : 14-CV-10027 (VEC)
:
O'ROURKE MARINE SERVICES L.P., L.L.P., :
O.W. BUNKER GERMANY GMBH, O.W. :
BUNKER USA, INC., ING BANK N.V., :
: Defendants. :
-----X
CONTI 149 CONTI GUINEA, individually and on :
behalf of M/T CONTI GUINEA (IMO No. :
9391402), :
: Plaintiff, :
: -against- : 14-CV-10089 (VEC)
:
O.W. BUNKER PANAMA S.A., O.W. BUNKER :
USA INC., CLEMENTI PARK SHIPPING CO. :
PTE LTD., ING BANK N.V., :
: Defendants. :
-----X
NYK BULK & PROJECT CARRIERS LTD., :
individually and on behalf of M/V OCEAN :
FRIEND (IMO No. 9401829), :
: Plaintiff, :
: -against- : 14-CV-10090 (VEC)
:
O.W. BUNKER USA INC., NUSTAR ENERGY :
SERVICES, INC., HARLEY MARINE GULF, :
INC., ING BANK N.V., :
: Defendants. :
-----X

<hr/> NIPPON KAISHA LINE LIMITED, individually and on behalf of M/V RIGEL LEADER (IMO No.9604940), Plaintiff, : -against- : O.W. BUNKER USA INC., NUSTAR ENERGY SERVICES, INC., KIRBY INLAND MARINE LP,: ING BANK N.V., Defendants. <hr/> HAPAG-LLOYD AKTIENGESELLSCHAFT, X Plaintiff, : -against- : O.W. BUNKER NORTH AMERICA, INC., O.W. BUNKER GERMANY GMBH, O.W. BUNKER USA, INC., ING BANK N.V., Defendants. <hr/> APL CO. PTE LTD and AMERICAN PRESIDENT LINES, LTD., individually and on behalf of M/V APL SALALAH (IMO No. 9462029), M/V APL ENGLAND (IMO No. 9218650), M/V APL OAKLAND (IMO No. 9332250), M/V APL SOUTHHAMPTON (IMO No. 9462017), M/V APL THAILAND (IMO No. 9077123), M/V APL CHINA (IMO No. 9074389), M/V APL EGYPT (IMO No. 9196905), M/V APL PHILIPPINES (IMO No. 9077276), and, M/V APL YANGSHAN (IMO No. 9462031), Plaintiffs, : -against- : O.W. BUNKER FAR EAST (SINGAPORE) PTE. LTD, O.W. BUNKER USA INC., O.W. BUNKER NORTH AMERICA INC., WESTOIL MARINE SERVICES, INC. AND ING BANK N.V., Defendants. <hr/>	X : : 14-CV-10091 (VEC) : X : 15-CV-00190 (VEC) : X : 15-CV-00620 (VEC) X
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VALERIE CAPRONI, United States District Judge:

WHEREAS, the above-captioned cases have been assigned or transferred to this Court as cases that are related to *UPT Pool Ltd. v. Dynamic Oil Trading (Singapore) Pte. Ltd. et al.* (14-cv-9262); and,

WHEREAS, pursuant to the Court's Order of December 19, 2014, counsel for parties in *SHV Gas Supply & Risk Management SAS et al v. O.W. Bunker USA, Inc. et al.* (14-cv-9720), *Hapag-Lloyd Aktiengesellschaft v. U.S. Oil Trading L.L.C. et al.* (14-cv-9949), and any other case presenting similar facts, were directed to brief the question of whether it is proper for the Court to permit Plaintiffs to initiate interpleader actions with injunctive relief under circumstances where the subject vessel has not yet arrived, and is not scheduled to imminently arrive, at a port in this District; and,

WHEREAS, pursuant to the Court's Orders of December 19, 2014 and December 31, 2014, briefs were filed by Defendants NuStar Energy Services, Inc. ("Nustar") and U.S. Oil Trading LLC ("USOT"), jointly, and separately by Defendant ING Bank N.V. on January 14, 2015. Response briefs were then filed by Plaintiffs (the "Vessel Interests") jointly, and separately by O.W. Bunker USA, Inc., O.W. Bunker Holding North America, Inc. and O.W. Bunker North America, Inc. (the "Debtors") on February 4, 2015; and,

WHEREAS, on February 13, 2015, NuStar and USOT filed a Motion for Leave to File a Joint Reply Memorandum of Law, seeking to respond to the briefs filed on February 4, 2015 (the "Motion"), and attached their proposed Reply brief as Exhibit A to the Motion; and,

WHEREAS, by letters dated February 17, 2015 and February 18, 2015, counsel for the Vessel Interests and the Debtors objected to the Motion on the grounds that the Court's Orders of December 19, 2014 and December 31, 2014 did not require or permit Reply briefs, and further

requesting permission to file a Sur-reply in the event that the Motion was granted; it is hereby
ORDERED:

1. The Motion is DENIED. Because the underlying briefing was submitted pursuant to the Court's Orders, and not pursuant to a particular motion filed by any party, NuStar and USOT are not entitled to file a Reply under the Federal Rules of Civil Procedure, the Local Rules for the Southern District of New York or otherwise; nor does the Court find that Reply briefing is necessary. The Reply brief attached as exhibit A to the Motion shall therefore be stricken.
2. In order to provide every opportunity for the parties to be heard, however, any party in the above-captioned cases wishing to address the question of whether this Court has subject matter jurisdiction over these actions shall be permitted to file one brief, not to exceed 10 pages. Briefs for parties arguing that subject matter jurisdiction is lacking shall be due February 27, 2015. Briefs for parties arguing that subject matter jurisdiction is proper shall be due March 6, 2015. Parties with similar positions are highly encouraged to submit joint briefs. No replies shall be permitted unless expressly authorized in advance by the Court.
3. Counsel for each Plaintiff shall be responsible for distributing copies of this Order to all Defendants named in their respective cases.

SO ORDERED.

Date: February 20, 2015
New York, New York



VALERIE CAPRONI
United States District Judge